

Policy of Title Insurance



ISSUED BY



First American Title Insurance Company

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

First American Title Insurance Company

BY  PRESIDENT
ATTEST  SECRETARY



First American Title Insurance Company

SCHEDULE A

Premium: \$to be determined

Amount of Insurance: \$to be determined

Policy Number: NCS-71824-WA3 - PROFORMA

Date of Policy: _____, 2004 at _____

1. Name of insured:

To Be Determined

2. The estate or interest in the land which is covered by this policy is:

Fee Simple

3. Title to the estate or interest in the land is vested in:

To Be Determined

4. The land referred to in this policy is described as follows:

Real property in the City of Lakewood, County of Pierce, State of Washington, described as follows:

Parcel A:

Beginning at a point on the East line of Government Lot 1, Section 31, Township 20 North, Range 3 East, W.M., in Pierce County, Washington, at a point 582.12 feet South 00°40'14" East of the Northeast corner of said Lot 1;

Thence South 89°15'40" West 838.62 feet to a point 288 feet East of the West line of said Lot;

Thence South parallel to said West line to a point 230 feet North of the South line of said lot;

Thence West to the West line of said lot;

Thence South along said West line of the Southwest corner of said Government Lot;

Thence North 89°39'00" East 1134.47 feet along the South line of said lot to the Southeast corner thereof;

Thence North 00°40'14" West 714.56 feet along the East line of said lot to the point of beginning;

Except that portion along the West boundary conveyed to the State of Washington by deed dated October 25, 1939 recorded under Recording No. 1253306 for Primary State Highway No. 1, now South Tacoma Way;

Also Except that portion condemned in favor of the City of Tacoma by decree of appropriation entered on February 13, 1951 in Pierce County Superior Court Cause No. 110217;

Also Except South 82nd Street as conveyed to Pierce County by instrument recorded under Recording No. 1430156;

Also Except the East 30 feet thereof;
Also Except that portion conveyed to Pierce County by instrument recorded July 30, 1980 under Recording No. 3005851;
Also Except the South 30 feet for 84th Street;
Also Except that portion conveyed to Pierce County by Quit Claim Deed recorded May 8, 1987 under Recording No. 8705080328;
Also Except that portion conveyed to Pierce County by Warranty Deed recorded June 20, 1994 under Recording No. 9406200377.

Parcel B:

That portion of Government Lot 1, Section 31, Township 20 North, Range 3 East, W.M., in Pierce County, Washington, described as follows:

Beginning at the intersection of the West line of Lawrence Street with the extension of the North line of South 84th Street, as said streets are shown upon the plat of Fane Bell Subdivision, according to plat recorded in Volume 13 of Plats at Page 90;
Thence on the West line of Lawrence Street, North 00°40'14" East 75 feet;
Thence West parallel with the North line of South 84th Street, 125 feet;
Thence South parallel with the West line of Lawrence Street 75 feet to the North line of South 84th Street;
Thence East along the North line of South 84th Street, 125 feet to the point of beginning;
Except the portion thereof lying Southerly of the following described line;
Beginning at a point opposite, when measured radially and/or at right angles, Engineer's Station, hereinafter referred to as "ES", "A" 19+96.81 on the center line of 84th Street South and 35.00 feet Northerly therefrom;
Thence Easterly parallel with said center line to point opposite ES "A" 21+01.70;
Thence Northeasterly along the arc of a curve to the left having a radius of 20.00 feet, to a point opposite ES "C" 10+55.29 on the center line of 33rd Avenue South and 30.00 feet Westerly therefrom, being the terminus of said description.

APN: 0320312046 and 0320312049

SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

PART ONE

SECTION ONE

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

SECTION TWO

1. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the Pierce County Tax Rolls, as tax account no. 0320312046, are exempt.

(Affects Parcel No. A)
2. Surface Water Management for the year 2004 in the amount of \$1,858.49. (APN 0320312046)
3. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the Pierce County Tax Rolls, as tax account no. 0320312049, are exempt.

(Affects Parcel No. B)
4. Surface Water Management for the year 2004 in the amount of \$17.75. (APN 0320312049)
5. Easement, including terms and provisions contained therein:
Recording Information: April 30, 1979, Recording No. 2906935
In Favor of: Pierce County
For: sewer pipeline, manholes and other appurtenant sewer

Affects: structures
Westerly portion

6. Easement, including terms and provisions contained therein:
Recording Information: May 30, 1978, Recording No. 2914620
In Favor of: Pierce County
For: sewer pipeline, manholes and other appurtenant sewer structures
Affects: the West 15 feet of the North 80 feet of said premises
7. Easement, including terms and provisions contained therein:
Recording Information: June 10, 1988, Recording No. 2997236
In Favor of: City of Tacoma
For: install and maintain anchor and guy wires
Affects: Easterly portion

Said easement supercedes easement recorded March 25, 1980 under Recording No. 2983218.

8. Easement, including terms and provisions contained therein:
Recording Information: 8011050195
In Favor of: City of Tacoma
For: pole foundation and a pole and crossarms
Affects: Southerly portion
9. A document entitled "Memorandum of Agreement (Storm Drainage Plan)", executed by and between Star-Lite Theatre, Inc. and Pierce County Public Works Department recorded March 26, 1987, as instrument no. 8703260465 of Official Records.
10. A document entitled "Possession and Use Agreement (Road and/or Storm Drainage Construction and Maintenance)", executed by and between Pierce County and Star-Lite Theatres, Inc. recorded March 30, 1993, as instrument no. 9303300413 of Official Records.
11. A document entitled "Pierce County Storm Drainage and Surface Water Management Utility Hold Harmless Agreement", executed by and between Pierce County and Star-Lite Theatres, Inc. recorded September 29, 1995, as instrument no. 9509290693 of Official Records.
12. A document entitled "Right of Entry Agreement (Inspection of Private Storm Drainage System)", executed by and between Pierce County and Star-Lite Theatres, Inc. recorded September 29, 1995, as instrument no. 9509290694 of Official Records.

NOTICE: This is a pro-forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insure. The inclusion of endorsements as part of the pro-forma policy in no way evidences the willingness of the Company to provide any affirmative coverage shown therein.

There are requirements which must be met before a final policy can be issued in the same form as this pro-forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- 1.(a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to
 - (i) the occupancy, use, or enjoyment of the land;
 - (ii) the character, dimensions or location of any improvement now or hereafter erected on the land;
 - (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or
 - (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

- (a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.
- (b) "insured claimant": an insured claiming loss or damage.
- (c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of any public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.
- (d) "land": the land described or referred to in Schedule (A), and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A), nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions from Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.
- (g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either

- (i) an estate or interest in the land, or
- (ii) an indebtedness secured by a purchase money mortgage given to an insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing

- (i) in case of any litigation as set forth in Section 4(a) below,

(ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or

(iii) if title to the estate or interest, an insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by an insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to an insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs (b) (i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or (ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement. The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. APPORTIONMENT.

If the land described in Schedule (A)(C) consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

9. LIMITATION OF LIABILITY.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

11. LIABILITY NONCUMULATIVE.

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

12. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

(a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

14. ARBITRATION.

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

16. SEVERABILITY.

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

17. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at 1 First American Way, Santa Ana, California 92707, or to the office which issued this policy.

P.C.P.N.S. File No 21-16

MEMORANDUM OF AGREEMENT AND
COVENANT TO RUN WITH THE LAND

THIS AGREEMENT made this 7th day of November, 1986, by and between STAR-LINE TRAILERS, INC. and PIERCE County, by and through the Pierce County Public Works Department;

WHEREAS, JACK L. DALLAS PRES., is the owner or contract purchaser of certain piece of property located in Pierce County, State of Washington, and described as follows:

SEE LEGAL DESCRIPTION ATTACHED

WHEREAS, PIERCE COUNTY, by and through its Public Works Department, has approved a storm drainage plan for a project on the above-noted parcel of property. The approval and approved plans are on file in the office of the Pierce County Public Works Department, at 2401 South 35th Street, Tacoma, Washington;

NOW, THEREFORE, pursuant to this agreement, the parties agree to the following:

1. That the applicant has voluntarily applied for the above-stated approval which grants the applicant the right to use or develop said premises in the approved manner, and after due consideration, Pierce County granted said approval;
2. These obligations shall run with the property and shall be binding on the applicant, heirs, successors and assigns;
3. The property included within the legal description on this document or on the attached Exhibit contains a private storm drainage system. It shall be the responsibility of the owner and/or heirs, successors and assigns to maintain the private storm drainage system and to keep the system in its originally designed condition. The design of the private drainage system was done by the professional engineering firm of WHITACRE ENGINEERS, INC., a copy of which is on file with Pierce County.

87 MAR 26 P 4: 29

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PERCE COUNTY WASH
8/10 DEPUTY

Jack L. Kline, Jr.
APPLICANT

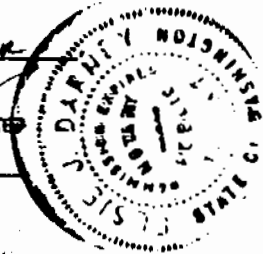
P.O. Box 9036
Address
TACOMA WA 98409
City, State, Zip

STATE OF WASHINGTON) ss.
County of Pierce)

On this day personally appeared before me Jack L. Dallas, to me known to be the individual or individuals, described in and who executed the within and foregoing instrument and acknowledged that he (she or they) signed the same in a free and voluntary act, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7th day of November 1980.

Elise Darny
NOTARY PUBLIC in and for the State
of Washington, residing at
Tacoma



It is due to the quality of the document being filed.

LEGAL DESCRIPTION

The legal description, from Auditor's File No. 1438641, dated January 24, 1947, is as follows:

Beginning at point on the East line of Lot 1 in Section 31, Township 20 N, Range 3 East of the W.M. at a point 582.12 feet South $0^{\circ}40'14''$ East of the Northeast corner of said Lot 1; thence South $89^{\circ}15'40''$ West 838.62 feet to a point 288 feet East of the West line of said lot; thence South parallel with said West line of said lot to a point 230 feet North of the South line of said lot; thence West to the West line of said lot; thence South to the Southwest corner of said lot; thence North $80^{\circ}39'$ East 1124.47 feet along the South line of said lot to the Southeast corner of said lot; thence North $0^{\circ}40'14''$ West 714.56 feet along the East line of said Lot to the point of beginning.

EXCEPT the West 48 feet of the South 230 feet and,

EXCEPT the South 30 feet and the East 30 feet thereof.

Situated in the County of Pierce and State of Washington.

REMARK: If this film is to be used as a legal record, it is due to the quality of the document being filmed.

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POSSESSION AND USE AGREEMENT

RECORDED
CATHY PEARSALL-STIPEK
AUDITOR PIERCE CO. WASH

THIS AGREEMENT is made and entered into this day by and between STAR-LITE THEATERS, INC., hereinafter referred to as the "Owner(s)", and PIERCE COUNTY, a municipal subdivision of the State of Washington, hereinafter referred to as the "County."

WITNESSETH

WHEREAS, Owner(s) warrant that they are the owners of record of a certain parcel of property located in Pierce County, Washington; and

WHEREAS, a certain portion of said Owner(s)' property, as described in Exhibit "A" attached hereto and incorporated by this reference, is required by the County for immediate use for road and/or storm drainage construction or maintenance on a project known as "South Tacoma Way - 84th Street South Intersection, CRP 5132, Parcel 1314", and

WHEREAS, the parties to this agreement have conducted negotiations regarding the purchase of the property described in said Exhibit "A" by the County, but have not reached a complete agreement; and

WHEREAS, additional time is necessary for the evaluation of the County's offer and/or to resolve any issues concerning just compensation; and

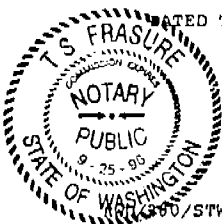
WHEREAS, the County affirms that any delay in its construction program is contrary to the public interest;

NOW THEREFORE, for and in consideration of the mutual benefits to be derived by both parties, the parties agree as follows:

1. The above described real estate is necessary for a public use of Pierce County.
2. The Owner(s) hereby grant to the County the immediate right to enter, possess, and use the property described in Exhibit "A" for the purpose of constructing and/or maintaining a public road and/or storm drainage facility.

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3. If this matter goes to trial, RCW 8.25.070 and RCW 8.25.075 authorize the court to award reasonable attorney fees and costs to Owner if the judgment awarded as a result of trial exceeds by ten percent or more the highest written offer in settlement submitted to Owner.
4. If applicable, the Owner(s) hereby waive the requirement of written notice to move, as provided by RCW 8.26.180, and will surrender possession of the real estate described in Exhibit "A" to the County not later than March 1, 1993.
5. The County shall defend, indemnify and hold the owner harmless from any and all claims of whatsoever kind or nature arising out of or related to the County's use or possession of the property under this agreement to the maximum extent permitted by the laws of the State of Washington. The indemnification provided for in this section with respect to any negligent act or omission or claims relating thereto occurring during the term of this agreement shall survive any termination or expiration of this agreement.
6. The term of this agreement shall begin on the date of acceptance of this agreement by the Pierce County Executive and shall terminate on the date of acceptance by the Pierce County Executive of a document conveying ownership of the property described in Exhibit "A" to the County.
7. It is understood and agreed that, by the execution of this agreement, the grantor herein is not prejudicing its rights as to the eventual acquisition by Pierce County through eminent domain proceedings, or otherwise, of the property herein described in the attached Exhibit "A".
8. It is understood and agreed that delivery of this agreement is hereby tendered and that the terms and obligations hereof shall not be binding upon the County unless and until accepted and approved in writing by the Pierce County Executive or his duly authorized representative.



DATED THIS 27th day of January, 1993.

Stalite Telecommunications Inc.
James M. [Signature]
Secretary

930/STW-B4Deed

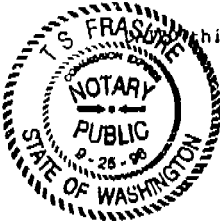
2 of 3

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BK 0668PG3520

STATE OF WASHINGTON)
)
County of Pierce)

I certify that I know or have satisfactory evidence that June M. Botz is the person who appeared before me, and said person acknowledged she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Secretary of the Corporation of the Starlite Theatres, Inc., a corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



this 29th day of January, 1993.

Steve Frasure
Signature

My Appointment Expires

9-25-96

Approved as to form only:

Accepted By:

Steve Frasure 2.3.93 June M. Botz 2/17
Pierce County Deputy Pierce County Executive Date
Prosecuting Attorney

After recording return to:

Pierce County Public Works Department
2401 South 35th Street, Suite 150
Tacoma, WA 98409-7487
Attention: Steve Frasure, Right-of-Way Agent

BK 0868PG3521

CRP 5132
Parcel 1314
Star-Lite

EXHIBIT "A"

That portion of the hereinafter described Tract "X" lying Southerly of the following described line:

Beginning at a point opposite, when measured radially and/or at right angles from Engineer's Station, hereinafter referred to as "ES", "RW" 6+53.62, on the centerline of South Tacoma Way and 48.00 feet Easterly therefrom; thence Southeasterly, in a straight line, to a point opposite ES, "A" 10+80.00 on the centerline of 84th Street South and 45.00 feet Northerly therefrom; thence Easterly, parallel with said centerline to a point opposite ES, "A" 15+00; thence Southerly, at right angles to said centerline to a point 40.00 feet Northerly therefrom; thence Easterly, parallel with the centerline of 84th Street South, to a point opposite ES, "A" 16+50, being the terminus of said line description.

Tract X

Beginning at a point on the East line of Government Lot 1, Section 31, Township 20 North, Range 3 East, W.M., in Pierce County, Washington, at a point 582.12 feet South 00°40'14" East of the Northeast corner of said Lot 1; thence South 89°15'40" West 838.62 feet to a point 288 feet East of the West line of said Lot; thence South parallel to said West line to a point 230 feet North of the South line of said Lot; thence West to the West line of said Lot; thence South along said West line to the Southwest corner of said Government Lot; thence North 89°39'00" East 1,134.47 feet along the South line of said Lot to the Southeast corner thereof; thence North 00°40'14" West 714.56 feet along the East line of said Lot to the point of beginning.

EXCEPT that portion along the West boundary conveyed to the State of Washington by Deed dated October 25, 1939, recorded under Recording No. 1253306 for Primary State Highway No. 1, now South Tacoma Way.

ALSO EXCEPT that portion condemned in favor of the City of Tacoma by Decree of Appropriation entered on February 13, 1951 in Pierce County Superior Court Cause No. 110217.

ALSO EXCEPT South 82nd Street as conveyed to Pierce County by instrument recorded under Recording No. 1430156.

ALSO EXCEPT the East 30 feet thereof.

ALSO EXCEPT that portion conveyed to Pierce County by instrument recorded July 30, 1980 under Recording No. 3005851.

ALSO EXCEPT the South 30 feet for 84th Street.

ALSO EXCEPT that portion conveyed to Pierce County by Quit Claim Deed recorded May 8, 1987 under Pierce County Recording No. 8705080328.

Situate in the County of Pierce, State of Washington.

BK0868PG3522

The lands herein described contain an area of 5,407 square feet, more or less, the specific details concerning all of which are to be found in that certain map of definite location now of record and on file in the office of the Director of Pierce County Public Works in Tacoma, Washington, and bearing date of approval July 27, 1992, revised November 24, 1992, and Bearing County Road Project (CRP) No. 5132 entitled South Tacoma Way - 84th Street South Intersection.

Additional Right-of-Way for South Tacoma Way - 84th Street South Intersection.

9509290693

PIERCE COUNTY STORM DRAINAGE AND SURFACE WATER MANAGEMENT UTILITY

HOLD HARMLESS AGREEMENT
STORM DRAINAGE FACILITY CONSTRUCTION, MAINTENANCE AND OPERATION

BM1160PG2022

Parcel Number 0 / 3 / 2 / 0 / 3 / 1 / 2 / 0 / 4 / 6 /Site Address: 8327 South Tacoma Way, Tacoma, WA (Star Line Theatres)

In order to mitigate or minimize the storm drainage and surface water impacts created by existing and future development on said property described in Exhibit "A" attached, a storm drainage facility has been installed.

Maintenance of the storm drainage facility shall be in accordance with the operation and maintenance manual prepared by the property owner's professional civil engineer. The owner shall be solely responsible for the operation and maintenance of the storm drainage facility.

The owner agrees to defend, indemnify and save harmless Pierce County, its appointed and elected officers, employees, and contractors from and against all loss of expense for the design, construction, and operation and maintenance of the storm drainage facility, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon Pierce County, its elected or appointed officials, employees, or contractors for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons on an account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the owner's contractor, his/her subcontractors, employees or agents. It is further provided that no liability shall attach to Pierce County by reason of entering into this contract, except as provided herein.

DATED this 22ND day of SEPTEMBER, 19 93at TACOMA, Washington.

Owner

Owner

Owner

Owner

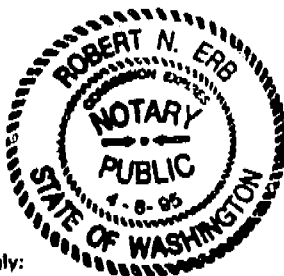
STATE OF WASHINGTON)

County of Pierce)

I certify that I know or have satisfactory evidence that

Paul Appling, Authorized Agent

is the person(s) who appeared before me, and that said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 22ND day of SEPTEMBER, 19 93

Notary Public in and for the State of Washington

Residing at TACOMAMy Appointment Expires 4/8/95

APPROVED as to form only:

Leon P. Jett
Pierce County Deputy
Prosecuting Attorney

Accepted By:

[Signature]
Pierce County Executive

Date

After recording return to:

Pierce County Storm Drainage and
Surface Water Management Utility
4910 Briarwood Drive West
Tacoma, Washington 98467-1299
Phone: (206) 586-2725

9509290693

DP

BKT 16062023

EXHIBIT "A"

LEGAL DESCRIPTION

That portion of SECTION 31, TOWNSHIP 20 NORTH, RANGE 03 EAST of the Willamette Meridian in Pierce County Washington described as follows:

COM NE COR LOT 1 TH S 00 DEG	40 MIN 14 SEC E 582.12 FT FOR POB
TH S 89 DEG 15 MIN 40 SEC W	838.62 FT TO A PT 288 FT E OF W LI
SD LOT TH S PAR/W SD W LI SD LOT	TO A PT 230 FT N OF S LI SD LOT TH
W TO W LI SD LOT TH S TO SW COR SD	LOT TH N 89 DEG 39 MIN E
1134.47 FT ALG S LI SD LOT TO SE	COR LOT 1 TH N 00 DEG 40 MIN
14 SEC W 714.56 FT ALG E LI SD LOT	TO POB EXC W 48 FT OF S 230 FT EXC
S & E 30 FT EXC N 30 FT LESS S	84TH ST EXC S 75 FT OF E 125 FT
THEREOF ALSO EXC POR DEEDED TO P	CO UNDER RTN #526382
EASE OF RECORD #2221628 LESS THAT	POR CYD FOR ADD R/W PER

9509290693